

Message Text

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ACTION L-02

INFO OCT-01 EUR-12 ISO-00 IO-10 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 EB-07 INR-07 NSAE-00 FAA-00 SAJ-01

OMB-01 FRB-03 TRSE-00 OIC-02 SSO-00 NSCE-00 USIE-00

INRE-00 PM-03 H-02 NSC-05 PA-01 PRS-01 SP-02 SS-15

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FM AMCONSUL MONTREAL

TO SECSTATE WASHDC IMMEDIATE 6123

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FROM USREP ICAO

E. O. 11652: N/A

TAGS: PORG, EAIR, ICAO

SUBJ: ICAO - SEPT DIP CONFERENCE ON WARSAW CONVENTION

REF: (A) STATE 062178, (B) STATE 053268, (C) MONTREAL 0447

1. REGARDING FIRST PARA REFTEL (A) BINAGHI DID NOT RPT NOT SUGGEST THAT "US FORMULATE SPECIFIC PROPOSAL ON PROCEDURES TO HANDLE GOLD ISSUE". PER INSTRUCTIONS IN REFTEL (B), USREP TOLD BINAGHI THAT BECAUSE OF GOLD CLAUSE PROBLEM US WAS CONSIDERING RESCHEDULING DIPCON POINTING OUT THAT SUB-PARA (A) AND (B) SAME REFTEL SEEMED OUT OF QUESTION. (D) WAS POSSIBILITY (TWO-STAGE CONFERENCE) AND (E) POSTPONEMENT FOR 6 TO 12 MONTHS WERE ALTERNATE POSSIBILITIES. REGARDING SUB-PARA (C), USREP TOLD BINAGHI THAT OUR ASSESSMENT IS THAT GOLD CLAUSE QUESTION COULD JEOPARDIZE CONFERENCE RESULTS -- WHICH LED TO HIS EXPRESSION CONCERN REPORTED IN PARA 1 REFTEL (A). BINAGHI IS NOT AND WILL NOT BE INVOLVED IN ASSESSMENT SERIOUSNESS OF GOLD QUESTION OR ANY OTHER SUBSTANTIVE MATTER, NOR WAS HE SUGGESTING ANY US PROPOSAL OF ANY LIMITED OFFICIAL USE

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SUBSTANCE. HE SIMPLY POINTED OUT THAT IF THE US HAD IN MIND

TO POSTPONE OR RESCHEDULE THE SEPT DIPCON, TIME WAS ABOUT TO RUN OUT. AS POINTED OUT IN REFTEL (C), PARA 2, HE ALERTED SECRETARIAT TO STAND BY FOR FEW DAYS TO PREPARE WORKING PAPER FOR CIRCULATION IN TIME FOR CONSIDERATION BY COUNCIL BEFORE MARCH 27 RECESS. SUCH CONSIDERATION IS NO LONGER POSSIBILITY TIME-WISE NOR IS IT LEGALLY POSSIBLE.

2. AFTERNOON MARCH 20, USREP AND PRES/COUNCIL EXPLORED SEVERAL POSSIBILITIES FOR GETTING OUT WP BEFORE RECESS SCHEDULING SPECIAL COUNCIL MEETING DURING COMMITTEE PHASE LAST WEEK APRIL. HOWEVER, HIS CONSULTATIONS WITH THE SECRETARIAT STAFF PREPARING WORKING PAPERS FOR DIPCON HAVE RESULTED IN FINAL DECISION THAT IT IS NO LONGER POSSIBLE TO PROCEED WITH US PROPOSAL IN COUNCIL FOR FOLLOWING REASONS.

(A) THE DIPLOMATIC CONFERENCE WAS CONVENED AND PROVISIONAL AGENDA APPROVED BY COUNCIL ON 4 DEC 1974. "TO CONSIDER, WITH A VIEW TO APPROVAL THE DRAFT ARTICLES FOR AMENDMENT OF WARSAW.... AS PREPARED BY THE LEGAL COMMITTEE....." THIS IS THE ONLY ITEM ON THE PROVISIONAL AGENDA.

(B) DISCUSSION OF GUATEMALA PROTOCOL IS NOT ON AGENDA, NOT ON LEGAL COMMITTEE'S WORK PROGRAMME AND NO MATERIAL FOR AMENDING GUATEMALA HAS BEEN DECLARED BY LC TO COUNCIL AS "MATURE" FOR CONSIDERATION BY A DIPCON. (DOC 7669 - LC/139 AND ADDENDA). ALTHO LEGAL COMMITTEE CAN GO STRAIGHT TO CONSIDERATION OF AN ITEM ON ITS WORK PROGRAMME, NORMALLY WORK IS FIRST DONE BY SUB-COMMITTEE OR RAPPORTEUR.

(C) DRAFT TEXTS OF CONVENTIONS OR AMENDMENTS MUST BE IN HANDS OF STATES AT LEAST SIX MONTHS BEFORE OPENING OF DIPCON. (DOC 7669).

3. PRES/COUNCIL SUGGESTS FOLLOWING FOR CONSIDERATION AS ALTERNATIVE WAYS OF CONSIDERING GOLD CLAUSE PROBLEM:

(A) STATE LETTER LM 1/6.1-75/14, JAN 17 INVITED STATES COMMENTS ON DRAFT ARTICLES BY MAY 20. ONE SUCH COMMENT MIGHT BE THAT THE NEW INSTRUMENT SHOULD COVER, WITHIN CONTEXT OF CARGO, PROBLEM OF POINCARE FRANC IN MANNER DIFFERENT FROM WAY IT IS DEALT WITH IN WARSAW-HAGUE-GUATEMALA.
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(B) DIPCON CAN ADOPT RESOLUTIONS IN ITS FINAL ACT. ONE SUCH RESOLUTION COULD URGE STATES TO TREAT GUATEMALA PROVISION REGARDING P. FRANC SAME AS TREATED IN NEW INSTRUMENT AND ASK ICAO TO START ACTION WITH VIEW TO AMENDING GUATEMALA.

(C) DIPCON IS SOVEREIGN. IT CAN ADD ITEM TO AGENDA AND PROCEED AS IT WISHES (WITH TWO COMMITTEES FOR EXAMPLE).

(D) PRES/COUNCIL MAKES MENTION OF FACT THAT GUATEMALA IS NOT ONLY INSTRUMENT WITH PROBLEM (SEE NORWEGIAN PAPER APPENDIX A OF LEGAL COMMITTEE REPORT LAST OCT -- DOC 9122. ALSO HE MADE REFERENCE TO LC REPORT (DOC 9122) PAGE 27 PARA 22.1-.3, AND PAGE 28 PARA 25.1-.4 INCLUDING RESOLUTION ON GOLD CLAUSE APPENDIX B, PAGE 45.

4. COUNCIL ACTION NOT FEASIBLE.

5. RE PARA 2(A) REFTEL (A), USREP AND PRES/COUNCIL DEEPLY CONCERNED RE MENTION OF INVOLVING LEGAL SUB-COMMITTEE AND ESPECIALLY WORKING GROUP ON CONFLICTS. NOT POSSIBLE.
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